

MID-ATLANTIC REGIONAL COUNCIL  
FOR SMALL BUSINESS TRAINING AND ADVOCACY

Minutes of Meeting, Wilmington, DE – January 19-20, 2005

**Next Meeting:** Williamsburg, VA, April 19-20, at the Hospitality House. (The executive board will meet on Monday, April 18.)

**Attendees:** There were 44 attendees at the two-day meeting.

**Introductions:** Council President Mark Opilla opened the meeting at 8:30 a.m. and invited attendees to introduce themselves.

**Committee and Officer's Reports:**

President

Mark Opilla announced that MARC is seeking individuals willing to serve as a vice-chair for each for each committee.

Planning Committee, Helen Katz

In announcing the next meeting in Williamsburg, Virginia, Ms. Katz noted that the cut-off for hotel reservations is March 4. The full-day meeting will be held on Tuesday, April 19, and the half-day meeting on Wednesday, April 20.

Awards Committee, Gerald Furey

**Congratulations, Christine Haber!**

The first MARC Individual Award for contributions to the council was presented to Christine Haber, chair of the Education Committee, in recognition of her ongoing efforts to bring outstanding speakers to the council meetings.

He also announced that the committee is now accepting nominations for a Team Award. Nominations for the Team Award should be e-mailed to [gerald.furey@navy.mil](mailto:gerald.furey@navy.mil) by March 1, 2005. Nominations for this award may be submitted by any MARC member, and be for a team in existence (formal team) or simply a group of people working together towards a common goal (informal team). He hopes to be bombarded with nominations.

Secretary, Carol Decker

In November, the council offered members the opportunity to have letters of support sent to their individual companies or commands. Approximately 31 letters were mailed in early December. We expect to offer the same service next fall. In addition, Dave Chapman retired from federal service on February 2; until the next council elections, Carol has been asked to serve as acting Treasurer.

Protocol Committee, Pat Huber

Pat Huber announced the recent retirement of Bonnie Maliszewski, former chair of the Governance Committee and Maryland State Representative. She also noted that the MARC Vice President Tom Kobezak anticipates retiring soon, as does Phil Villela, New Jersey State

Representative. Pat will be coordinating appropriate acknowledgement of these life changes, and reminded the membership to keep her informed of any additional items. In addition to her current position as chairperson of the Protocol Committee, Pat announced she has been appointed to and has accepted the role of Maryland State Representative.

#### Governance Committee

Council President Mark Opilla appointed Jana Tull to chair the Governance Committee, a position that was vacant due to the retirement of Bonnie Maliszewski.

#### Legislative Committee, Linda Owen

The members received a handout in their meeting folders containing Legislative highlights considered to be of interest to the group.

### **Presentations and Speakers:**

**Joe Diamond**, Director, Air Force Office of Small and Disadvantaged Business Utilization.

Mr. Diamond began the presentations of the day by posing several questions to the group: How can the regional small business councils get together and put ideas forward to integrate where we are going? What is our relationship with SBA, PTACs, etc.? How can we better integrate to move the program forward? He noted that the councils are good at training and education.

He said that for the second year, the Air Force has met its small business goal, primarily due to tremendous work at the field level. Operational contingencies have helped move the program forward. SB, SDB, HUBZone goals were met; WOB was close; Service Disabled Veteran Owned Small Business (SDVOSB) was not met. The trend is positive with respect to HUBZone and SDVOSB goals but it may never be achieved. He's attempting to discover what needs attention in the HUBZone and SDVOSB programs to move them forward. For example, because 75% of HUBZone awards are construction, he asked the trade associations if that's a true picture of the supplier base. They answered that there is broader capability out there. He said that if the firms are there, then "we need to do more to identify the reasons why the preference programs are not making the kinds of progress that Congress is looking for." In his opinion, the SDVOSB program is different. Before, they had no reason to identify themselves. He expects more firms to identify themselves due to the set-aside, and predicted that over a short period of time there will be no major shift but the trend will be positive.

Commodity Councils: He said that there is pressure from Congress and the GAO to be a better steward of public money. The Air Force's first try was with laptops, desktops, and servers, whereby leveraging buying power they saved millions. He said that they looked at spend analysis and established an aggressive small business goal; since they were doing 6% they set the goal at 12%. According to Mr. Diamond, "Commodity Councils are forcing us to look at how we are developing our contracting strategy. Are we continuing to build an industrial base? I have a concern about that. The right focus is to look at what is happening in the small business sector for each commodity."

Budget: Influences include BRAC (Base Reduction and Closure), which will have an impact, and the Quadrennial Defense Review (QDR), which determines procurement activity.

Challenges: Calling the program a leadership issue, he said, “I’m trying to change the mindset of the leadership” in that they have to be the advocate. “We have to protect our industrial base, which is the reason why our job is important. The small business sector drives the continued economic growth and development of our nation. If the commanders start standing up for small business, you’ll see those who work for that commander be more responsive.”

Image: He said that although sometimes our customers “equate small business with small capability”, some 38% of Air Force systems come from small businesses. He noted that their website, [www.selltoairforce.org](http://www.selltoairforce.org) is there for all to use; it contains training modules, a pocket guide, and great information about recent activity.

Subcontracting: In discussing comprehensive plans he said, “I’d hate to see folks in the field not asking for aggressive subcontracting plans just because the firm has a comprehensive plan.” He thinks that it must be part of source selection criteria as percentage of total contract value, so that it is not just focused on lower level tasks. He also encouraged participants to not just ask for a plan in the proposal, but also to measure performance against it, suggesting it be tied to an award fee or assessed on the CPAR (Contract Performance Assessment Report). He said, “We are abdicating some of our responsibilities in our effort to get things out in regards to competition and good acquisition practices.”

**David Boyd, Procurement Analyst for the Director, Defense Procurement & Acquisition Policy; Strategic Sourcing Commodity Councils and Spend Analysis.**

According to Mr. Boyd, DOD is not leveraging cross-functional and cross-department opportunities in order to minimize total acquisition costs. Purchases are not coordinated across services; the capabilities of small businesses are not fully leveraged; and supplies have multiple contracts with different departments supplying comparable services at different prices.

He defined Strategic Sourcing as volume leveraging; long-term strategic relationships; best value analysis; and demand management in making sure requirements are understood and grouped properly.

In naming the benefits, he said that it enhances performance; is a win-win for the government and the contractor; allows better management of socio-economic goals, more efficient use of contracting officers and specialists; and enhances the procurement office status with a value added business management function. Although it takes time, he said that he believes the benefits outweigh the implementation costs.

To make strategic sourcing work, he said that you must fit all the pieces together, noting that the ideal information includes acquisition/contracts, business intelligence, budget, requirements office projections, and financial execution. Success Factors include strong competition, clearly defined specifications, full spend visibility, cost drivers identified for both DOD and industry, and alignment of DOD Internal Sourcing Processes. Commercial Success Factors include standardized service categories, electronic catalogs, increased level of automation, mandatory utilization, streamlined vendor base, strong senior governance, and skilled commodity team members. But he noted, DOD “can’t take it as far as the commercial world did.”

In discussing the process, he called it “ad hoc to date”, and said that the short-term goal is to develop the process. In the long-term scenario, there will be an Acquisition Governance Board, a Directors Board made up of representatives from branches of DOD, and each will have commodity councils under them.

In the first phase, Service Commodity Groups were identified, including Construction, Medical, Facilities, Administrative Services, Training, Travel, Environment, IT, Special Studies, Equipment Management, and other or Miscellaneous.

He described some of the difficulties in strategic sourcing, and said that they include working with DD350 data errors; considering socio-economic impact; working with the vast geographic dispersion of work, having no objective measure of savings, dealing with organizational and cultural differences, where “one military department doesn’t want to talk to another”, and using the existing enterprise level consolidated contracts.

In a high-level overview of the commodity strategic sourcing process, five steps include to profile the commodity, conduct market analysis, develop a commodity strategy, issue an RFX and negotiate, and then implement and manage performance.

As an initial step of the spend analysis, he said that a preliminary commodity structure has been developed for Administrative Support Services, and described it as, “The easiest commodity area to begin with, because it won’t hurt the war fighter in the field.” For certain spend groups, first analyzing current Total Ownership Cost (TOC) can reveal significant improvement opportunities. After profiling the commodity, the team should have a detailed understanding of what we buy from whom with emphasis on detailed specifications and requirements. Then, the team should conduct a supply market analysis, seeking to develop a thorough understanding of the supply market and supplier’s business issues. Developing a detailed cost structure and cost drivers for suppliers can aid in identifying possible negative levers. Frameworks are useful for providing guidance for developing supply market understanding and finding areas of opportunity. This point, he said, is when you “start thinking about all the things that can happen”.

Various strategies must be evaluated to realize full benefits, he said adding, “We want to come up with something other than a (GSA) schedule. We still have competition. Find a way to automate competition like the commercial world has done. There are a lot of similarities between us and GSA. For things we buy in common, why not have our own? If schedules don’t fit our needs exactly, we establish something that does.”

Mr. Boyd’s recommendation is, “Let’s stop focusing on the 23% (overall goal) and see what we can really do” in the separate service commodity groups. “We’re looking at things that are very common across the board; that you can find on any base. The hardest thing was getting the military departments to sit down together. You have to have an open mind.” In closing, he said that he is confident that “this is a good thing for the small business community.”

**George Ralis**, Business and Industrial Specialist, US Department of Commerce, Office of Small and Disadvantaged Business Utilization; **Business Brokers for Program Success.**

The Department of Commerce (DOC) mission is to create the conditions for economic growth and opportunity by promoting innovation, entrepreneurship, competitiveness and stewardship. Their goals are to provide information and tools; foster science and technology; and observe, protect and manage the earth's resources. The list of organizations in the DOC includes Census, Economic Development, International Trade, Minority Business Development, National Oceanic & Atmospheric Administration, Telecommunications, Patent & Trademark, Technical Information, and Economic Analysis, among others. All tie in together to help the economy. Mr. Ralis's office reports to the deputy secretary level; each organization with procurement authority has a small business specialist assigned to it. He said, "We are here to promote economic strength in our country."

The past four years of DOC statistics show annual increases in awards to small businesses, and the preliminary reports for FY04 indicate DOC exceeded all but the veteran and service disabled veteran owned small business goals. In describing the role that small business and acquisition play within DOC, Mr. Ralis said that it is "where we all have something in common; how we can use the process in the day to day activities." Acquisition is broader than "procurement" or "contracting", in that it includes promoting competition. He said, "we're partners in the process with the acquisition community." And as business brokers, acquisition is critical to DOC's ability to achieve its mission.

He said that a business broker is a thoroughly knowledgeable individual who seeks out and understands the need, market, and methods to supply the need. Then, the individual properly applies the right mix of contracting tools to accomplish the goal. According to Mr. Ralis, the small business office "wants to work earlier in the process than we do now. We need to know the market to manage your expectations. We don't always do that and we want to extend this across the acquisitions."

What's driving the business broker approach is the trend of increasing workload and decreasing resources. With transformation in the acquisition environment, you have to have senior management buy-in that changes in the business process and appropriate use of technology allow focus on the program outcome and business success. He is seeking to bridge the emerging gap between resources and requirements.

As business partners with the acquisition community, he said that he wants to use streamlined and flexible methods such as cascading set-asides; work early in the budget cycle to address small business issues; use performance-focused approaches which facilitate innovation; and effectively leverage technology and commercial practices. Under the new model, the acquisition community engagement – including small business –will occur right after the budget/strategic plan and before requirements definition, strategic sourcing, and acquisition strategy. Under the old model, they were engaged after acquisition strategy decisions were made. The old model caused minimal coordination and inadequate planning. He said, "We expect that there is better planning ahead, being a better partner and shortening the execution time."

When asked about DOC's success in the HUBZone goal area, he said that the FY04 achievements are partly due to hosting an industry day for HUBZone firms. A similar event was held for SDVOSBs. The activities included vendor exhibits, program people and small business advocates to address the vendors, having small businesses see the process and helping them to

identify who are the contacts. Follow-up efforts seek to have the companies continue involvement with the small business offices.

**Earl Warrington**, Deputy Program Manager, E-Government Initiative, General Services Administration; **Integrated Acquisition Environment**.

The Integrated Acquisition Environment (IAE) is a process partnership with specialists that started in July 2001 with the eGov task force. In August 2002, 24 projects were defined as a starting point and IAE was an outcome of that. There are 200 years of acquisition history in federal government, dating back to the turn of the century. He said that we want a secure business environment that supports cost effective acquisition of goods and services to support agency mission performance.

The goals of IAE are to create a common business process; create data sharing for better business decisions; and take a unified approach to obtain modern tools to leverage investment costs for business related processes. His objectives include a single point of registration and validation of supplier data; implementing a central point to access statistics; implementing a directory of interagency contracts; developing a standard glossary to better exchange data; and transforming intra-governmental ordering and billing. In short, he said they want to create a shared services environment where we “make sure we have an order, a bill, and someone to accept it”.

Included in the business areas of BPN, the Business Partner Network, are CCR (Centralized Contractor Registration), ORCA (Online Representations and Certifications Application), and eSRS (Electronic Subcontract Reporting System). The Acquisition Information Reporting or AIR includes FPDS-NG (Federal Procurement Data System – Next Generation), the Market Place that includes FedBizOpps, Intra-Governmental Transactions or IGT, which seeks to reduce payment and collection problems using consolidated financial statements, and the IAE Portal.

CCR is the single source of federal government vendor data and it incorporated SBA’s PRO-Net in January 2004. More than 352,000 vendors are registered; 190,000 of them are small businesses. It saves small businesses administrative time and duplication of input, requires annual validation, and leaves vendors responsible for their own data. Currently, they are working to improve the integrity of vendor data in CCR. Future plans are to have the SBA validate the socio-economic data and remove self-certifications for SBA programs. SBA will direct 8(a), HUBZone, and SDB certifications. Only SBA will fill in the three certification areas on CCR. In addition, there will be an SBA algorithm to determine if a firm is small in a given NAICS. He expects this to be completed by April. Then, a CCR update will trigger a message to SBA for NAICS validation. In discussing how to ensure data misrepresentations are dealt with, he said that he anticipates the system will use the Dun & Bradstreet hierarchy to detect novation situations; which can be traced through the tree.

ORCA, the online representation/certifications application, includes a FAR provision for prime contracting. FAR Case 2002-024 established Provision 52.204-8. As of January 2005, contracting officers must incorporate ORCA. Seller’s responses to 26 questions will populate legally required clauses; there will be minimal annual updates and exchange of information will be encouraged. He said, “You are our voices to the programs. You’re my voice coming back to me. We want to work together to get better information. We’re moving toward e-authentication,

so when I go in and certify, it will validate. Today I'm relying on what they certify. It's going to help small businesses overall. The IT of this is not designed to take anything away – it's designed to help you in the process. We're losing resources. I need your minds."

FPDS-NG consists of information dealing with awards, all the way down to \$2500. The system is becoming more real-time; it is real-time for civilian agencies, but DOD has a 90-day gray period, when we will collect data but the world can't see it for 90 days due to security concerns. Ultimately, the contracting officer is responsible for reporting the business size. He said, "They need to understand that they have immediate impact" in the contracting arena, "we're trying to make sure the data is correct and of the highest integrity." There are 60 standard reports available in real time and free; additionally, there are custom reports. Long-term government history will be associated with the FPDS-NG portion of Acquisition Information Reporting (AIR). "The big thing is that small business, you, everyone involved has the same view into the market space," he said, "when changes are needed, everyone has same visibility on demand. Let us know if there are areas that need to be changed." He encouraged feedback be sent to [integrated.acquisition@gsa.gov](mailto:integrated.acquisition@gsa.gov) or to him at [earl.warrington@gsa.gov](mailto:earl.warrington@gsa.gov). Additional information is available at <http://egov.gsa.gov>.

**Frank Masley**, [Militarygloves.com](http://Militarygloves.com), President, Masley Enterprises.

Mr. Masley talked about how he got into the business, his goals and strategy, challenges and opportunities. A former Olympic luge athlete, he worked for 11 years at Gore-Tex Fabric, got his MBA, and started a new business in 2000, called Masley Enterprises.

The US military wanted improved gloves and most US manufacturers were not willing to make improved products. The US Military is required by law to buy USA made for clothing and textiles, so he perceived it to be a good potential market. He was aware of lessons learned from the US Army, whose gloves kept soldier's hands warm but 72% of them couldn't operate weapons while wearing them. The troops demonstrated that they'd rather wear thin gloves and have cold hands than wear the Army-issued gloves.

He set out to improve the product, attain the competitive advantage to stay in business, procure raw materials and then subcontract the labor, and market his product to the US Military. His operating principles are to respect the athlete-worker, or person who makes the product; and respect the end-user, or person who wears product.

He said that he received good support from the Delaware SBDC-PTAC, family, friends, and suppliers. He has attended trade shows at Fort Benning, Little Rock, Quantico, Dover AFB, etc., and noted that it can be expensive for a small business to have a booth at these events. Other challenges include the GSA application which takes about 80 hours to complete, and which he did himself; the GSA Advantage website required 40 hours preparation and caused some software problems. He discussed his experience in getting a Fuel Handler Glove to be accepted by the military, having started the process in 2000 and still "optimistically awaiting award."

Looking ahead, he mentioned some additional challenges including: identifying future government procurements, lobbying, briefing local representatives, off shore manufacturing, and working with GSA Competition. He said that his motto is *Just Make a Good Glove*, "But

business people know it doesn't work that way. I believe that there is still a place for manufacturing in the US."

**Marylee Renna**, Regional Council Coordinator, Department of Defense, Office of Small and Disadvantaged Business Utilization; **DOD Regional Councils**.

At the DOD Regional Council meeting on October 28, 2004, four goals were set which impact regional councils: update the website ([www.acq.osd.mil/sadbu/programs/regional/index.html](http://www.acq.osd.mil/sadbu/programs/regional/index.html)); encourage participation; improve communication within the councils, and ensure the council presence at the 2005 DOD training conference.

In updating the website, the short-term goal is to improve and use existing DOD website (<http://www.acq.osd.mil/sadbu/programs/regional/index.html>); the long-term goal is to consider implementing a DOD Regional Council Community of Interest. The idea is to share minutes, lessons learned, and best practices, to communicate better.

To encourage participation of Small Business Specialists (SBS) in DOD regional councils, she is targeting February for releasing a one-time letter from the OSD SADBUD Director emphasizing the importance of the councils. She said that this was last done in 1990s, and "that's something we need to do out of our office."

In the area of communication, she offered help in arranging for speakers, postings to the website, and noted that the councils themselves, represented by the chair and vice chair, need to meet at least annually. A possible way is to arrange for meeting at OSD bi-annual meetings, dovetailing a meeting with a procurement conference, and considering a Regional Council panel at conferences. In putting together the small business training conference for 2005, she will use results from a survey taken at the 2004 conference and will be looking for suggested topics.

In other events, she is sponsoring a women-owned small business event for DOD this summer and will ask the councils for help in getting the word out. She also noted that the SBIR program will be getting a new program manager in February.

Her advice to the members was to get word to industry, don't market yourself just on socio-economic designations, because "We aren't looking just to meet goals; we're looking to meet mission." She advised some women-owned businesses to tell program managers "what makes you fabulous". She said that part of her job is "to explain it is not so much what you are, but what you can do for your country."

**Vince Mazzotta**, Small Business Administration, Size Determination Specialist; **Partnering for Contracting Success**.

Mr. Mazzotta discussed how using partnering and joint ventures small companies can increase their competitive edge, enhance their capabilities, diversify, and compete with large businesses. He noted that 13 CFR 121 and [www.sba.gov/size/](http://www.sba.gov/size/) are recommended resources for further information.



He defined joint ventures as, “an association of individuals and/or concerns with interests in any degree or proportion by way of contract, express or implied, consorting to engage in and carry out no more than three specific or limited-purpose business ventures for joint profit over a two-year period, for which purpose they combine their efforts, property, money, skill, or knowledge, but not on a continuing or permanent basis for conducting business generally”, and discussed what that means.

First, it means that the joint venture entity cannot submit more than three offers over a two-year period; second, a joint venture may or may not be in the form of a separate legal entity; third, the joint venture is viewed as a business entity in determining power to control its management; and fourth, SBA may also determine that the relationship between a prime contractor and its subcontractor is a joint venture, and that affiliation between the two exists.

The general principles of affiliation are defined in 13 CFR 121.103, including the power to control, common managers, common stockholders, identical business interests, contractual relationships, and joint venture arrangements. Basically, the parties to a joint venture are considered to be affiliates if they submit offers on a particular procurement, although there are exceptions to this rule. If determined to be affiliates, it could impact the size determination of a small business, so it is important for small firms to know how to joint venture without becoming affiliates.

Two or more small firms can submit an offer for a federal procurement without being affiliated on a “bundled” procurement as long as each firm alone is considered to be small under the NAICS code assigned to the buy, regardless of dollar value.

If it’s not a bundle and the buy is estimated over \$10 million (including options), then the firms aren’t affiliated as long as it is an employee-based NAICS and both are small under the NAICS code assigned. In instances of a revenue-based NAICS, then the dollar value of the procurement, with options, must exceed half the size standard corresponding to the assigned NAICS, for them not to be affiliated.

The SBA Mentor-Protégé program offers another exclusion, in that they can joint venture as a small business for federal contracts as long as the protégé would be considered small for that buy, and if it is being done under the 8(a) program, the protégé hasn’t reached the dollar limit set in 13 CFR 124.519. He noted that this can only be done under SBA’s mentor-protégé program. When an 8(a) participant forms a joint venture or teaming arrangement with other business concerns, they can avoid affiliation by meeting the requirements of 13 CFR 124.513(b)(1). Mr. Mazzotta said, “The key thing is that all firms must be small.” Additionally, if the NAICS is employee-based, the buy has to be over \$10 million; and if the NAICS is revenue-based, at least one of the participants has to be less than half the size of the size standard assigned.

According to Mr. Mazzotta, “some of my most interesting cases occur in the area of ostensible subcontracting.” Sometimes a prime and subcontractor are treated as a joint venture. This occurs if the “ostensible subcontractor” performs primary and vital requirements of a contract or if the prime contractor is unusually reliant upon the subcontractor. He noted that 13 CFR 121.103(h)(4) is the reference for more details.

How to determine whether ostensible subcontracting exists in a given case is not outlined in any regulation, according to Mr. Mazzotta, who introduced the Seven Factors Test. He said, “you won’t find this in any regulations because they came from an Office of Hearing and Appeals (OHA) case back in 1987. Sherry Rose wrote the decision and OHA backed her up.”

The Seven Factors Test includes a look at the following:

1. Which party chased the contract?
2. What degree of collaboration was there between the prime and subcontractor on the proposal?
3. Which party possesses the requisite background and expertise to carry out the contract?
4. Who will manage the contract?
5. Are there discrete tasks to be performed by each party, or is there commingling of personnel and materials?
6. What is the amount of work to be performed by each party?
7. Which party performs the more complex and costly contract functions?

The SBA will use this test as one tool to evaluate whether an arrangement is a true prime/subcontractor relationship or whether it is a joint venture due to ostensible subcontracting. But, determining unusual reliance comes down to an overall reasonable conclusion based on the total circumstances of the buy.

Mr. Mazzotta referred the group to [www.sba.gov/oha/](http://www.sba.gov/oha/) for additional information on ostensible subcontracting, and suggested using your favorite Internet search engine with keyword searches such as “ostensible subcontracting”, “totality of the circumstances” or “joint venture”.

### **Carol Decker, Small Business Administration, Procurement Center Representative; SBA Updates and Information.**

Ms. Decker provided a handout of recent information and updates impacting SBA programs. The following are excerpted from the handout.

SBA’s 8(a) application online: SBA now has an electronic online application designed to make it easier to apply for 8(a) Business Development and Small Disadvantaged Business certification directly from SBA’s Web site. The application is 100 percent Web-based, requires no special software or plug-ins, and replaces a four-page written application.

Service-disabled veterans move beyond stereotypes: Service-disabled veterans said many program managers and contracting officers either don’t know about the recently-passed set aside or haven’t been encouraged to use it. In addition, they said that the fear of being stereotyped prevents some veterans from identifying themselves as service-disabled, which in turn makes it difficult for contracting officers and program managers to find companies that can perform the set-aside work.

Tribal companies dominate Top 25 8(a)s: Washington Technology’s list of Top 25 8(a) list is dominated by tribally owned corporations this year. The top four are tribal businesses, and eight of the Top 25 are Alaska Native Corporations or Native American tribally owned. The article said that it can be attributed in large part to the regulations that give these firms a significant advantage over other 8(a) companies in competing for federal contracts. They are exempt from

the limits placed on sole source contracts. They can own multiple companies that can join the 8(a) program. They can start new 8(a) companies as their older ones graduate from the program.

Infotech and the law - Sad state of affairs for small business in federal contracting: Audits by the Government Accountability Office of the Federal Procurement Data System have uncovered widespread errors in the data, and GAO warns that the data is not reliable. Moreover, GAO audits of Defense Department procurements over the past 10 years show a steady decline in the percentage of contract dollars going to small business. The Defense Department hands out the greatest number of small-business contracts, but there has been a marked decline in both the number of contracts awarded to small firms and the total contract dollars awarded.

Large Federal Contractors Miscoded as Small Businesses – Over \$2 Billion in FY02 Mistakenly Assigned to Small Businesses: The SBA Office of Advocacy News Release 04-41, dated December 28, 2004, reported that in FY 02 \$2 billion in federal contracts were miscoded as going to small rather than to large businesses. The study examined the contracts given to the 1,000 largest (in dollar volume) federal small business contractors in FY 02. The report found that 44 of the top 1,000 small business contractors were not, in fact, small businesses; their contracts coded as small business totaled \$2 billion.

SBA Implements New Policy to More Accurately Report on Small Business Federal Contracting: SBA recently implemented a new policy, effective December 21, 2004, that enables the federal government to more accurately monitor contract awards when a small business is purchased or merged with a large business through the process of novation. The new policy requires a business to recertify itself as small for federal contracts transferred to it from another business if the contract is to continue being counted as a small business contract. Until recently, that company did not need to recertify if it transferred the contract to the acquiring business. Once the small business status has been established by the new owner, the contracting officer can count the contract toward the agency's small business goals.

ORCA - Online Representations and Certifications: The Office of Management and Budget released the final rule on ORCA, effective date of January 1, 2005, i.e. all solicitations will be required to insert the new ORCA clause. Companies will no longer have to fill out paper "Reps and Certs" for every proposal they submit against a Federal contract. They will now certify that their information in ORCA is correct. Notices will be sent to all firms in CCR.

Defense Authorization Bill for FY2005 - HR 4200, signed 18 October 2004, PL 108, Title VIII: Section 803 – provides for Secretary of Defense review of all alternative mechanisms for procuring commercial communications satellite services and provide guidance to the Director of DISA and secretaries of the military departments; protects DOD satellite telecom services from contract bundling and continuation of procurement as a small business set-aside. Also requires a Congressional report on satellite services source selection and protecting incumbent contracts. Section 813 – sets a 10-year limit on task and delivery order contracts; Section 841 & 842 – extends for 5 years DOD's Mentor-Protégé Program and requires a study on the effectiveness of the program. Includes SDVOSBs and HUBZone SBs; Section 843 – extends for five years the test program for negotiation of comprehensive small business subcontracting plans; Section 853 – clarifies that JWOD preferences do not apply to existing Randolph-Sheppard Act contracts and Randolph-Sheppard Act contracts do not apply to current JWOD contracts (where small businesses may also be eligible).

Provisions dropped from the final version include, Section 816 that sought to establish government-wide procedures for tracking purchase card data and placement of a fair portion of purchase card actions with small businesses.

FY 2005 Consolidated Appropriations Act: On December 7, 2004, the FY 2005 Consolidated Appropriations Act (Act) was signed into law by the President. Items impacting the Office of Government Contracting/Business Development HUBZone Program include, allows HUBZone firms to be at least 51% owned and controlled by US citizens; treats a base closure area that has undergone final closure as a HUBZone for a period of 5 years; extends the transition period for firms no longer in a qualified HUBZone thru the release of the 2010 census data; adds a price evaluation preference of five percent for agricultural commodities for export operations for international food aid; and authorizes the HUBZone program thru 2006. The Act also allows 8(a)-certified firms to participate in state programs that are funded by the Federal government without requiring additional certification.

The U.S. Department of State Acquisition Regulation (DOSAR) Requires Compliance with the Small Business Act to Overseas Contracts: From the Federal Register - Department of State is seeking comments on a proposed regulation to formalize policy regarding the application of the Small Business Act to contracts awarded by domestic contracting activities where contract performance takes place overseas. The Department follows an informal policy of applying part 19 to such contracts. This DOSAR change, therefore, states this policy in explicit terms. Comments were due by February 22, 2005.

General Services Administration (GSA) Acquisition Regulation; Access to the Federal Procurement Data System: Also from the Federal Register, GSA is seeking comments on an amendment to its Acquisition Regulation (GSAR) by adding coverage to specify the rate that will be charged to nongovernmental entities in exchange for permitting them to establish a direct computer connection with the Federal Procurement Data System (FPDS) database. This interim rule establishes the one-time hookup fee of \$2500 that will be charged to individuals, companies, or organizations wishing direct web services access to the database. Comments were due February 28, 2005.

SBA Seeks Comments on Size Standards: The U.S. Small Business Administration is seeking comments from the general public on key issues relating to its small business size standards, the rules used by the SBA and other federal agencies to determine whether a business is small. Last March, SBA proposed to restructure its size standards by reducing the number of different size categories from 37 to 10, and by expressing all size standards in terms of the number of a company's employees. In comments submitted to the SBA, the public expressed concern about several aspects of SBA's approach, prompting the SBA to withdraw that proposal for further study on July 1, 2004. The SBA published a notice of the comment-seeking process in *The Federal Register* on Dec. 3, with comments due by February 1. That notice, an Advance Notice of Proposed Rulemaking, didn't propose any specific changes to the agency's size standards. However, before SBA considers a different approach to restructuring its size standards, it was seeking comments on a number of general issues.

Federal Register Final rule, Subcontracting. Effective December 20, 2004, this final rule amends the SBA regulations on subcontracting, and SBA's earlier proposed rule on contract bundling.

Specifically, this final rule provides a list of factors to consider in evaluating a prime contractor's performance and good-faith efforts to achieve the requirements in its subcontracting plan. The final rule also authorizes the use of goals in subcontracting plans, and/or past performance in meeting such goals, as a factor in source selection when placing orders against Federal Supply Schedules, government-wide acquisition contracts, and multi-agency contracts. In addition, this final rule implements statutory provisions and other administrative procedures relating to subcontracting goals and assistance.

In particular, the final rule lists the various categories of small businesses that must be afforded maximum practicable subcontracting opportunities, and clarifies the responsibilities of prime contractors and SBA's Commercial Market Representatives (CMRs) under the subcontracting assistance program. The final rule also supplies guidance on Subcontracting Orientation and Assistance Reviews (SOARs), which CMRs perform to assist prime contractors in their efforts to understand and comply with the requirements governing the small business subcontracting assistance program. SBA has added language to Sec. 125.3(b) clarifying that a small business cannot be required to submit a formal subcontracting plan or a subcontracting report.

In addressing comments on Determination of Good-Faith Efforts, SBA stated that it believes the nine-item list of actions a prime contractor could take in order to demonstrate good faith efforts (at 13 CFR 125.3(b)(3)) provides sufficient guidance concerning the meaning of this term.

SBA Announces Plans to Celebrate Small Business Week 2005: The U.S. Small Business Administration will mark National Small Business Week in Washington, D.C., April 26-28, 2005, with *SBA Exp '05* showcasing Small Business Persons of the Year winners from each state, and featuring the announcement of the *National Small Business of the Year*. *SBA Expo '05* will also feature special events that include a small business expo, a business matchmaking event, business seminars, a town hall meeting and award ceremonies honoring America's top entrepreneurs and state and national small business winners. Other highlights will include notable speakers and business industry leaders from trade associations, and local and federal governments. Information on SBA Expo '05 can be found online at [www.sba.gov/expo](http://www.sba.gov/expo).

### **Vincent Rice, Small Business Administration, Commercial Market Representative; eSRS, the Electronic Subcontracting Reporting System.**

The eSRS program is a web-based version of Standard Forms 294 and 295. According to Mr. Rice, eSRS "will be up and running soon". All prime contractors will be required to use eSRS when it is in place. DIOR (Directorate for Information Operations and Reports) will no longer collect subcontracting data, but DOD will be able to use DIOR to generate ad hoc reports for eSRS and provide other support as needed.

The eSRS will be part of the Integrated Acquisition Environment (IAE). Within IAE, the different systems will be able to "talk" to one another, allowing importing and exporting of data as needed.

An advantage of the new system is that it will calculate percentages automatically and will contain an audit trail to show who entered data or revised it. It will interface with prime

contractors' systems so that prime contractors can download data rather than keypunching data into the system.

Right now, the anticipated location on of eSRS will be: [www.srs.gov](http://www.srs.gov), with hyperlinks from related web sites, such as from SBA's SUB-Net.

Lower-Tier Reporting: SBA wants it to be designed to capture lower tier money. But, for prime contractors to receive credit for using lower tier awards toward subcontracting goals there will have to be a FAR change. According to Mr. Rice, "The prime contractors can only take first tier credit and the agencies can only take credit for their first tier awards." He noted that, "It hasn't been settled yet who can look at the data, for example whether the Army can view Navy; whether GSA can look at DOD, or whether a prime can view a subcontractors data."

**Amy Byers, Senior IBM Consultant; DOD EMail.**

The EMail mission is to be single point of entry for purchasers to find and acquire goods and services. The site is considered to be small business friendly, with 700 plus commercial contractors of which 572 are small businesses. They currently add about 300 new users each week, receive 1.5 million hits to the site per week, and handle 600-plus Help Desk Calls.

The users are from DOD. She noted however, "We are starting to expand to the federal side of the world. These aren't huge orders." The average sale is \$1,465. In FY04, there were more than 700,000 total line items. The projected sales in FY05 are \$300 million.

What is out there: NSN catalogs, DSCP clothing, JWOD items, DRMS items, and Commercial Catalogs, including Office Depot, 3M, Dell, Maryland Nautical, and more. It includes a broad range of supplies.

Advantages include the ability to do cross-catalog buys, searches, use different shipment and payment options, and easy reordering. She noted that EMail takes the government purchase card, and said that, "The last couple of years we have been working with the repeat customer to make the reordering process simpler." She noted that it accommodates regional pricing so that the price you see is the price you pay. According to Ms. Byers, EMail is "good for small businesses." They can do tiered pricing and be regional vendors – the small businesses that only want to work in specific areas.

FY04 changes include Homeland Security was added; Army BFAs were set up for office supplies, two new versions were released with improvements, and a manual order entry was added for DLA customers. Part of the Business Systems Modernization, EMail will be the front end.

Potential users register online, with 24-hour validation; a user can be someone who orders or who shops, or a contracting officer; users can use a funding code or credit card. They track accounts by Department Services, Command, or DODAAC. The EMail Website is [www.email.dla.mil](http://www.email.dla.mil).

She noted that there is computer-based training available on the web site, and showed that the suppliers list uses icons to identify companies as small businesses and as “new” to EMail. Contracting officers can click the icon for a profile and a point of contact. From the website, users can also access customer service or locate the EMail program managers, who are listed online. The site includes a link to FAQs.

For small business vendors interested in offering products or services through the EMail there is a section on the main webpage called Becoming a DOD EMALL Supplier you can link to the site at <https://email.prod.dodonline.net/scripts/EMBecomeAVendor.asp>.

The meeting adjourned at 12:00 noon.

Respectfully submitted,  
Carol S. Decker, Secretary